

ASSEMBLY BILL

No. 2631

Introduced by Assembly Member Dababneh

February 21, 2014

An act to amend Sections 361, 3018, 19370, 19371, to amend the heading of Article 5 (commencing Section 13282) of Chapter 3 of Division 13, to amend and renumber Sections 19382 and 19385, and to repeal Sections 13283, 13284, 13285, 13286, 13287, 13288, 13289, 19380, 19381, 19383, 19384, 19386 of the Elections Code, with relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 2631, as introduced, Dababneh. Elections: voting machines.

Existing law provides for the conduct of statewide and local elections and sets forth provisions governing, among other things, election procedures, the declaration of results, and election contests. Existing law defines for these purposes the term “voting machine” to mean any device upon which a voter may register his or her vote, and which, by means of counters, embossing, or printouts, furnishes a total of the number of votes cast for each candidate or measure.

This bill would modify and update the definition of “voting machine” to mean any electronic device into which a voter may enter his or her votes, and which, by means of electronic tabulation and generation of specified printouts and records, furnishes a total of the number of votes cast for each candidate or measure. The bill would make conforming changes and repeal obsolete provisions of existing law.

Existing law requires the precinct board, as soon as the polls are closed, to comply with specified requirements relating to the closing of the polls, including, but not limited to, the locking of voting machines

and the reading and posting of the statement of return of votes cast for the precinct. Existing law also sets forth the procedures by which the proclamation of the result of the votes cast must be distinctly announced.

This bill would modify and repeal certain precinct board requirements and procedures relating to the reading, posting, and inspection of the statement of return of votes cast for the precinct. By imposing new duties on local officials, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 361 of the Elections Code is amended to
2 read:

3 361. "Voting machine" means any *electronic device* ~~upon~~,
4 *including, but not limited to, a precinct optical scanner and a*
5 *direct recording voting system*, which a voter may ~~register~~ *enter*
6 *his or her* ~~vote~~ *votes*, and which, by means of ~~counters, embossing,~~
7 ~~or printouts,~~ *electronic tabulation and generation of printouts or*
8 *other tangible, human-readable permanent records*, furnishes a
9 total of the number of votes cast for each candidate ~~or and for or~~
10 *against each* measure.

11 SEC. 2. Section 3018 of the Elections Code is amended to read:

12 3018. (a) Any voter using a vote by mail ballot may, prior to
13 the close of the polls on election day, vote the ballot at the office
14 of the elections official. The voter shall vote the ballot in the
15 presence of an officer of the elections official or in a voting booth,
16 at the discretion of the elections official, but in no case may his or
17 her vote be observed. Where voting machines are used the elections
18 official may provide one voting machine for each ballot type used
19 within the jurisdiction. ~~Elections officials may provide electronic~~
20 ~~voting devices for this purpose provided that sufficient devices~~

1 *voting machines* are provided to include all ballot types in the
2 election.

3 (b) For purposes of this section, the office of an elections official
4 may include satellite locations. Notice of the satellite locations
5 shall be made by the elections official by the issuance of a general
6 news release, issued not later than 14 days prior to voting at the
7 satellite location, except that in a county with a declared emergency
8 or disaster, notice shall be made not later than 48 hours prior to
9 voting at the satellite location. The news release shall set forth the
10 following information:

11 (1) The satellite location or locations.

12 (2) The dates and hours the satellite location or locations will
13 be open.

14 (3) A telephone number that voters may use to obtain
15 information regarding vote by mail ballots and the satellite
16 locations.

17 (c) Vote by mail ballots voted at a satellite location pursuant to
18 this section shall be placed in a vote by mail voter identification
19 envelope to be completed by the voter pursuant to Section 3011.
20 However, if the elections official utilizes ~~electronic voting devices~~
21 *voting machines*, the vote by mail ballot may be cast on ~~an~~
22 ~~electronic voting device~~ *a voting machine*.

23 SEC. 3. The heading of Article 5 (commencing with Section
24 13282) of Chapter 3 of Division 13 of the Elections Code is
25 amended to read:

26
27 Article 5. ~~Voting Machines~~ *Ballot Labels*
28

29 SEC. 4. Section 13283 of the Elections Code is repealed.

30 ~~13283. The ballot label shall be printed by the elections official~~
31 ~~in black ink on clear material of a size that will fit the machine, of~~
32 ~~a color that may be determined by the elections official, and in as~~
33 ~~plain, clear type as the space will reasonably permit.~~

34 SEC. 5. Section 13284 of the Elections Code is repealed.

35 ~~13284. The list of offices and candidates and the statements~~
36 ~~of measures used on the voting machines is an official ballot.~~

37 SEC. 6. Section 13285 of the Elections Code is repealed.

38 ~~13285. The county elections official shall furnish sufficient~~
39 ~~ballot labels for the voting machines used at any election.~~

40 SEC. 7. Section 13286 of the Elections Code is repealed.

1 ~~13286. The officers or board charged with the duty of providing~~
2 ~~ballots for any polling place shall provide the polling place with~~
3 ~~two sample ballots, which shall be arranged in the form of a~~
4 ~~diagram showing that part of the face of the voting machine that~~
5 ~~will be in use at that election.~~

6 SEC. 8. Section 13287 of the Elections Code is repealed.

7 ~~13287. The sample ballots shall be either in full or reduced~~
8 ~~size, and shall contain suitable illustrated directions for voting on~~
9 ~~the voting machine.~~

10 SEC. 9. Section 13288 of the Elections Code is repealed.

11 ~~13288. The ballot labels shall be delivered to the officer in~~
12 ~~charge of the voting machines at least 30 days before the election.~~

13 SEC. 10. Section 13289 of the Elections Code is repealed.

14 ~~13289. At the presidential primary, if the voting machine will~~
15 ~~accommodate it, the county central committee election ballot shall~~
16 ~~be placed upon the voting machine together with the presidential~~
17 ~~primary ballot.~~

18 SEC. 11. Section 19370 of the Elections Code is amended to
19 read:

20 19370. (a) As soon as the polls are closed, the precinct board,
21 in the presence of the watchers and all others lawfully present,
22 shall immediately lock the voting machine against voting and ~~open~~
23 ~~the counting compartments, giving full view of all counter~~
24 ~~numbers. A board member shall, in the order of the offices as their~~
25 ~~titles are arranged on the machine generate from each voting~~
26 ~~machine at least three copies of a statement of return of votes cast,~~
27 read and distinctly announce the name or designating number and
28 letter on each counter for each candidate's name and the result as
29 shown by the counter numbers *statement*. He or she shall also in
30 the same manner announce the vote on each measure.

31 ~~If the machine is provided with a recording device, in lieu of~~
32 ~~opening the counter compartment, the precinct board shall proceed~~
33 ~~to operate the mechanism to produce the statement of return of~~
34 ~~votes cast record in a minimum of three copies, remove the~~
35 ~~irregular ballot, if any, record on the statement of return of votes~~
36 ~~east record. The irregular ballot shall be attached to the statement~~
37 ~~of result record of votes cast for the machine and become a part~~
38 ~~thereof.~~

39 (b) One copy of the statement of return of votes cast for each
40 voting machine shall be posted upon the outside wall of the precinct

for all to see. *The copy of the result shall be signed by the members of the precinct board.* To protect a person's right to cast a secret ballot under Section 7 of Article II of the California Constitution, in cases where fewer than 10 voters cast ballots on any single voting machine on which the results are tallied at the precinct, the precinct board shall *read and* post only the total number of people who voted ~~at on that precinct on the voting machine that keeps~~ *vote tallies*. The statement of return of votes cast for each voting machine for the precinct shall constitute the precinct statement of result of votes cast.

SEC. 12. Section 19371 of the Elections Code is amended to read:

19371. Before adjourning, the precinct board shall seal ~~the operating lever~~ *each voting machine* with the seal *or seals* provided and lock the voting machine ~~so that the voting and counting mechanism may not be operated.~~

It shall remain locked and sealed against operation until the time for filing a contest of election has expired, ~~which shall not exceed a period of 30 days following the declaration of the result of the election by the body canvassing the returns.~~

SEC. 13. Section 19380 of the Elections Code is repealed.

~~19380. During the reading of the result of votes cast, any candidate or watcher who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be distinctly announced by the precinct board who shall read the name of each candidate, or the designating number and letter of his or her counter, and the vote registered on the counter. The board shall also read the vote cast for and against each measure submitted. The board shall not count votes cast for write-in candidates, but shall have these counted by the elections official. During the proclamation ample opportunity shall be given to any person lawfully present to compare the result so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the precinct board, after which the doors of the voting machine shall be closed and locked.~~

~~To protect a person's right to cast a secret ballot under Section 7 of Article II of the California Constitution, in cases where fewer than 10 votes are cast on any single machine on which the results are tallied at the precinct, the precinct board shall read only the~~

1 total number of people who voted at the precinct on the machine
2 that keeps vote tallies.

3 If the machine is provided with a recording device, the alternate
4 procedures in Section 19370 may be used.

5 SEC. 14. Section 19381 of the Elections Code is repealed.

6 ~~19381. In each election district where voting machines are~~
7 ~~used, statements of the results of the vote cast shall be printed to~~
8 ~~conform with the type of voting machine used.~~

9 ~~The designating number and letter on the counter for each~~
10 ~~candidate shall be printed next to the candidate's name on the~~
11 ~~statements of result of the vote cast. Two such statements shall be~~
12 ~~used in each election district.~~

13 SEC. 15. Section 19382 of the Elections Code is amended and
14 renumbered to read:

15 ~~19382.~~

16 ~~19380~~ The statement of the result of votes cast, which shall be
17 certified by the precinct board, shall contain:

18 (a) The total number of votes cast.

19 (b) The number of votes cast for each candidate and measure
20 as shown on the ~~counter~~ *statement of return of votes cast*.

21 (c) The number of votes for persons not nominated.

22 (d) Printed directions to the precinct board for their guidance
23 before the polls are opened and when the polls are closed.

24 (e) A certificate which shall be signed by the election officers
25 before the polls are opened, showing:

26 (1) The delivery of the keys in a sealed envelope.

27 (2) The number on the seal.

28 (3) The number registered on the protective counter.

29 (4) Whether all of the counters are set at zero (000).

30 (5) Whether the public counter is set at zero (000).

31 ~~(6) Whether the ballot labels are properly placed in the machine.~~

32 (f) A certificate that shall be filled out after the polls have been
33 closed, showing:

34 (1) That the *voting* machine has been locked against voting and
35 sealed.

36 (2) The number of voters as shown on the public counter.

37 (3) The number on the seal *or seals*.

38 (4) The number registered on the protective counter.

39 (5) That the voting machine is closed and locked.

40 SEC. 16. Section 19383 of the Elections Code is repealed.

1 ~~19383. A member of the precinct board shall enter the vote,~~
2 ~~as registered, on the statements of result of votes cast, in the same~~
3 ~~order on the space that has the same name or designating number~~
4 ~~and letter, after which another member shall verify the figures by~~
5 ~~calling them off in the same manner from the counters of the~~
6 ~~machine. The counter compartment of the voting machine shall~~
7 ~~remain open until the official returns and all other reports have~~
8 ~~been fully completed and verified by the precinct board.~~

9 ~~If the machine is provided with a recording device, the alternate~~
10 ~~procedures in Section 19370 may be used.~~

11 SEC. 17. Section 19384 of the Elections Code is repealed.

12 ~~19384. The precinct board shall, before it adjourns, post~~
13 ~~conspicuously on the outside of the polling place a copy of the~~
14 ~~result of the votes cast at the polling place. The copy of the result~~
15 ~~shall be signed by the members of the precinct board. To protect~~
16 ~~a person's right to cast a secret ballot under Section 7 of Article~~
17 ~~H of the California Constitution, in cases where fewer than 10~~
18 ~~voters cast ballots on any single machine on which the results are~~
19 ~~tallied at the precinct, the precinct board shall post only the total~~
20 ~~number of people who voted at that precinct on the machine that~~
21 ~~keeps vote tallies.~~

22 ~~If the machine is provided with a recording device, the statement~~
23 ~~of result of votes cast produced by operating its mechanism may~~
24 ~~be considered the "result of the votes cast" at the polling place.~~

25 SEC. 18. Section 19385 of the Elections Code is amended and
26 renumbered to read:

27 ~~19385.~~

28 ~~19381~~ The precinct board shall immediately transmit unsealed
29 to the elections official a copy of the result of the votes cast at the
30 polling place, the copy shall be signed by the members of the
31 precinct board, and shall be open to public inspection.

32 SEC. 19. Section 19386 of the Elections Code is repealed.

33 ~~19386. Before proceeding to canvass the returns of an election~~
34 ~~at which voting machines have been used to register the votes cast,~~
35 ~~the board authorized to canvass returns shall open the counter~~
36 ~~compartment and compare the records of votes cast for the several~~
37 ~~candidates voted for and for and against the several measures voted~~
38 ~~upon shown on each machine with those recorded on the statement~~
39 ~~of results of votes cast prepared from that machine by the precinct~~
40 ~~board. Any errors found on the statement shall be corrected by~~

1 ~~crossing out the recorded incorrect number, and recording the~~
2 ~~correct number nearby.~~

3 ~~If the machine is provided with a recording device, the board~~
4 ~~shall inspect the statement of return of votes cast record. However,~~
5 ~~for good and sufficient cause the board shall unseal the machines~~
6 ~~and take off and record the records of votes cast for the several~~
7 ~~candidates and for and against the several measures voted upon.~~
8 ~~Each voting machine shall immediately be resealed.~~

9 SEC. 20. If the Commission on State Mandates determines
10 that this act contains costs mandated by the state, reimbursement
11 to local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.